

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JACK FERM,

Plaintiff,

vs.

COLLEEN MCCARTY, et al.,

Defendants.

Case No. 2:12-cv-00782-GMN-PAL

REPORT OF FINDINGS
AND RECOMMENDATION

(Mtn for Default Judgment - Dkt. #54)

This matter is before the court on Plaintiff Jack Ferm's Motion for a Default Judgment Against Defendants Under the Court's Inherent Power to Sanction Fraud Upon the Court (Dkt. #54); Defendants Colleen McCarty's, KLAS, LLC's; and Steve Kanigher's Response (Dkt. #84); Defendants' Erratum (Dkt. #92); Plaintiff's Reply (Dkt. #97); and Plaintiff's Surreply (Dkt. #104).

Plaintiff's Motion for Default seeks case-dispositive sanctions asserting defense counsel has advanced arguments amounting to fraud on the court by making various factual contentions and legal arguments in Defendants' Motion to Dismiss (Dkt. #10) and in their Oppositions (Dkt. ##34, 37, 45) to Plaintiff's Motions for Partial Summary Judgment (Dkt. ##16, 23, 31). The undersigned entered an Order and Report of Findings and Recommendation recommending that Plaintiff's First Amended Complaint be dismissed with leave to amend. The court found that Plaintiff had not established the court's subject matter jurisdiction or complied with Rule 8 of the Federal Rules of Civil Procedure and recommended dismissal of the First Amended Complaint (Dkt. #5) with leave to amend. The court has also recommended that Plaintiff's Motions for Summary Judgment (Dkt. ##16, 23, 31) be denied as the First Amended Complaint is deficient, and it is not clear that the court has subject matter jurisdiction.


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1 For the same reasons,

2 **IT IS RECOMMENDED** that Plaintiff's Motion for Default Judgment (Dkt. #54) be DENIED.

3 Dated this 28th day of January, 2013.

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6 PEGGY A. LEEN
7 UNITED STATES MAGISTRATE JUDGE

8 **NOTICE**

9 These findings and recommendations are submitted to the United States District Judge assigned
10 to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being
11 served with these findings and recommendations, any party may file written objections with the court.
12 Pursuant to Local Rule of Practice (LR) IB 3-2(a), any party wishing to object to the findings and
13 recommendations of a magistrate judge shall file and serve *specific written objections* together with
14 points and authorities in support of those objections, within fourteen days of the date of service of the
15 findings and recommendations. The document should be captioned "Objections to Magistrate Judge's
16 Findings and Recommendations." The parties are advised that failure to file objections within the
17 specified time may waive the right to appeal the District Court's Order. *Martinez v. Ylst*, 951 F.2d 1153
18 (9th Cir. 1991). The points and authorities filed in support of the specific written objections are subject
19 to the page limitations found in LR 7-4.
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